

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 05-CV-329-GKF-SAJ
)	
TYSON FOODS, IN)	
)	
Defendants.)	

NON-WAIVER OF PRIVILEGE AGREEMENT
Referencing Docket #1131

The Court and the Parties acknowledge that, while each Party is making reasonable precautions to identify and withhold from production any documents and ESI which that party believes is privileged, given the volume and nature of material being exchanged, there is a possibility that certain privileged material may be produced inadvertently. Accordingly, the Court hereby orders the following with regard to inadvertently produced privileged documents and ESI:

A. A requesting party who receives a document or ESI and knows or reasonably should know that the document or ESI is privileged and was inadvertently produced shall, upon discovery of the inadvertent production, promptly notify the producing party;

B. A producing party who despite reasonable precautions produces any privileged document and/or ESI, without intending to waive the claim of privilege associated with such document and/or ESI may, within ten days after the producing party actually discovers that such inadvertent production occurred, amend its discovery response and privilege log, and notify the requesting party that such document and ESI was inadvertently produced and should have been withheld as privileged;

C. Once the producing party provides such notice to the requesting party, the requesting party must promptly return all copies of the inadvertently produced document and/or ESI in its possession, and retrieve and return all copies of such documents and/or ESI the requesting party provided to any expert, consultant, client or third-party.

D. This non-waiver agreement applies to electronic as well as any physical or hard-copies of documents made of any ESI;

E. By complying with this obligation, the requesting party does not waive any right it has to challenge the assertion of privilege and may request an Order of the Court overruling such privilege claim.

F. Any inadvertent disclosure of privileged documents or ESI properly identified to the requesting party in compliance with this Order shall not constitute a waiver of such privilege in any federal or state litigation or any federal or state administrative proceeding.

DATED THIS 24th DAY OF APRIL, 2007.


Sam A. Joyner
United States Magistrate Judge

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